



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

**URGENT LEGAL MATTER  
REQUIRES PROMPT RESPONSE**

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
JUN 06 2014**

Mr. Ralph Packer, President  
R.M. Packer Company, Inc.  
P.O. Box 308  
Tisbury, MA 02568

Re: Clean Air Act Notice of Violation

Dear Mr. Packer:

The U.S. Environmental Protection Agency, Region 1 ("EPA") is issuing R.M. Packer Company, Inc. ("Packer") the enclosed Notice of Violation ("NOV") for violations of the Clean Air Act.

The NOV addresses EPA's findings of violation at the facility located on Beach Road in Tisbury, Massachusetts ("Tisbury facility"). Specifically, Packer has violated, and is still in violation of the Massachusetts State Implementation Plan requirements regarding gasoline bulk terminals found at 310 CMR § 7.24, and plan approval requirements found at 310 CMR § 7.02.

You may confer with EPA about the enclosed NOV and its findings. To schedule a conference, please contact Elizabeth Kudrauskas of my staff at (617) 918-1564 or have your legal counsel contact Thomas Olivier of my staff at (617) 918-1737 within fourteen (14) days of your receipt of this letter and the enclosed NOV.

Sincerely,

A handwritten signature in cursive script, reading "Susan Studlien", is positioned above the typed name.

Susan Studlien, Director  
Office of Environmental Stewardship

Enclosure

cc: Gregg Hunt, MassDEP, SERO

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 – NEW ENGLAND**

IN THE MATTER OF

R.M. Packer Co., Inc.  
P.O. Box 308  
Tisbury, MA 02568

Proceeding under Section  
113 of the Clean Air Act

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**CLEAN AIR ACT  
NOTICE OF VIOLATION**

**STATUTORY AUTHORITY**

1. The United States Environmental Protection Agency Region 1 (“EPA”) issues this Notice of Violation (“NOV”) under the authority of Section 113 of the Clean Air Act (“CAA”), 42 U.S.C. § 7413, to R.M. Packer Co., Inc. (“Packer”).
2. This NOV contains EPA’s findings that Packer has violated CAA requirements by operating a gasoline distribution bulk terminal without complying with 310 Code of Massachusetts Regulations (“CMR”) 7.24, and without applying for and obtaining a plan approval under 310 CMR 7.02.
3. The provisions of 310 CMR 7.24 and 7.02 are Massachusetts air pollution control regulations that have been approved by EPA as part of the Massachusetts state implementation plan (“SIP”). EPA may enforce the Massachusetts SIP under Section 113(a) of the CAA.

**BACKGROUND**

4. Packer owns and operates a petroleum storage and distribution facility in Tisbury, Massachusetts (“the Tisbury facility”).

5. Operations at the Tisbury facility include gasoline storage, gasoline distribution at a loading rack, and vapor collection and processing using a vapor recovery unit ("VRU").
6. On June 10, 2013 EPA conducted an inspection of the Tisbury facility. During the inspection EPA inspectors used a forward-looking infrared ("FLIR") camera to monitor emissions of volatile organic compounds ("VOCs") at the truck loading rack and in the vapor collection and processing system, including the pressure-vacuum relief vent ("PVRV").
7. During the June 2013 EPA inspection, FLIR videos indicated that the PVRV on the vapor line to the VRU was releasing VOCs.
8. EPA also used pressure monitoring equipment to measure pressure in the vapor line at the loading rack while trucks were loading and the PVRV was releasing VOCs. During the inspection EPA measured the maximum pressure in the vapor line to be 6 inches of water.
9. During the June 2013 EPA inspection, FLIR videos indicate that the VRU was releasing VOCs from one of its two carbon beds.
10. During the June 2013 inspection, a Packer representative stated that based on his observations of the vacuum gauge he believed the VRU was not functioning properly.
11. During the June 2013 inspection the EPA inspectors reviewed facility records including leak inspection documents and maintenance records.
12. On August 7, 2013 EPA issued an order requiring Packer to conduct a VOC emissions test on the vapor collection and processing system within 30 days of receipt.
13. Packer operates the Tisbury facility without a plan approval under 310 CMR 7.02.

#### **VIOLATIONS OF GASOLINE BULK TERMINAL REQUIREMENTS**

14. The provisions of 310 CMR § 7.24(2) include emission limits and equipment standards



for the control of VOC emissions at gasoline bulk terminals.

15. Section 7.24(2)(a)(1) requires that each loading rack be equipped with a vapor collection and disposal system, which is installed and has been maintained and operated in accordance with the operating instructions of the manufacturer.

16. Packer has failed to maintain and operate the VRU in accordance with the operating instructions of the manufacturer, in violation of 310 CMR 7.24(2)(a)(1).

17. 310 CMR 7.24(2)(a)(2) requires that any vapor discharged during transfer of the organic material is collected and disposed of by the vapor collection and disposal system.

18. During the June 2013 inspection, leaks from the PVRV and the VRU during gasoline loading indicated failures to collect and dispose of gasoline vapors through the VRU, in violation of 310 CMR 7.24(2)(a)(2).

#### **VIOLATION OF TESTING ORDER**

19. On August 7, 2013 EPA issued an order requiring Packer to conduct a VOC emissions test on the vapor collection and processing system at the Tisbury facility within 30 days of receipt, and to provide a test report to EPA.

20. To date, Packer has failed to comply with the requirements of the testing order. Packer has indicated to EPA that it does not plan to test the existing VRU, and that it will test after installing a new VOC control device.

#### **VIOLATION OF PLAN APPROVAL REQUIREMENTS**

21. The SIP, at 310 CMR 7.02 provides that no person may construct, substantially reconstruct, or alter any facility that may cause or contribute to a condition of air pollution

without applying for and obtaining a plan approval from the Massachusetts Department of Environmental Protection.

22. Packer has altered the Tisbury facility without applying for and obtaining a plan approval or approvals for such alteration, in violation of 310 CMR 7.02.

### **ENFORCEMENT**

23. At any time after 30 days following the issuance of this NOV, EPA may take any or all of the following actions in accordance with the provisions of Section 113 of the Act: (a) issue an order requiring compliance with the Act; (b) issue an administrative penalty order; or (c) bring a civil action in federal district court for an injunction and/or monetary penalties up to \$37,500 per day for each violation. See Sections 113(a), (b) and (d) of the CAA, 42 U.S.C. §§ 7413(a), (b) and (d), and 40 CFR. Part 19.4 (CAA judicial and administrative penalties raised from \$25,000 to \$37,500, effective after December 6, 2013).

24. If Packer has knowingly violated the requirements of the CAA, Packer and its responsible corporate officers may be subject to criminal penalties under Title 18 of the United States Code, imprisonment for not more than five years, or both. See Section 113(c) of the Act, 42 U.S.C. § 7413(c).

25. Be advised that the issuance of this NOV does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law that are available to address the violations alleged above.

### **OPPORTUNITY TO CONFER**

26. If Packer has any questions regarding this NOV, please contact Elizabeth Kudarauskas,

Environmental Engineer, at (617) 918-1564, or have your legal counsel contact Thomas T.

Olivier, Senior Enforcement Counsel, at (617) 918-1737. Packer may request an opportunity to confer with EPA within 14 days of issuance of this NOV by contacting Ms. Kudarauskas or Mr. Olivier at the phone numbers listed above.

**EFFECTIVE DATE**

27. This NOV shall become effective immediately upon issuance by EPA.

Susan Studlien

Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency  
Region 1 – New England

06/06/14

Date